

REMARKS

Applicant has amended the specification to clarify a typo indicating the position of the distal end of an embodiment of the invention in line and consistent with the specification as a whole. Amendment to the specification does not add any new matter. The amendment puts the application in a proper condition and corrects the inadvertent error in the drawings to overcome the rejection. The amendment therefore negates the need for new drawing sheets, as the drawings do not now require correction.

Claims 1, 4, 8, 9, 12, and 17 have been amended to more particularly point out and distinctly claim the invention. In particular, the claims now recite an endoscope control tube, rather than an annular tube, in order to avoid confusion throughout the dependant claims and to better define the invention with respect to the accompanying specification and figures. Withdrawal of 35 U.S.C. 112, second paragraph, rejection of these claims is therefore respectfully requested.

Claims 1, 3-4, 8-10, 12-16, and 18-20 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0022762 to Beane, et. al (Beane).

Beane discloses a device with a single set of "wings," 642a and 642b, on the device extending straight out from the surface. Beane teaches wings as for the purpose of limiting the cannula, 610, from penetrating the patient (Paragraph 0094). The wings taught by Beane do not form a radially extending flange. As modified to more particularly point out and distinctly claim the invention, Claims 1 and 13 call for a radially extending flange sized to preclude insertion of the control into the body cavity of a patient, and which acts as a barrier to prevent lubricant from migrating onto the control. As Beane discloses no such similar device, Beane does not anticipate Claims 1 and 13.

Additionally, Beane fails to disclose a second set of wings (or flanges). The Examiner describes a "second flange extending outwardly from the annular tube closer to the distal end

thereof (see Figs. 6a-b),” however there are no such flanges listed in the two figures noted by the Examiner, nor in the specification. The Examiner also points to Beane paragraphs 0087-0093 to describe barriers preventing lubricant from migrating onto the endoscope control. The barriers described in paragraphs 0087-0093, namely 620 and 622, are internal distal and proximal seals, with the primary purpose of preventing excess lubricant coating the surface of the endoscope mechanism. Conversely, the present invention describes the flanges as an external device to prevent lubricant from migrating onto the gripping surface of the outer control while at the same time, the first flange operates to preclude insertion of the control into the body cavity of a patient. As neither seal 620 or 622 could conceivably be used to preclude the control from entering a body cavity, neither can serve to anticipate the present invention as claimed in Claims 1 and 13. Furthermore, neither sponge 628 nor pad 626 serve such dual function to both: preclude insertion; and means for coating the endoscope.

By failing to describe each limitation of the present device, Beane cannot serve as prior art precluding the allowance of the application under 35 U.S.C. 102(b). Withdrawal of the rejection of Claim 1 is requested. Upon allowance of Claim 1, Claims 3-4, 8-10, 12, 14-16, and 18 depending therefrom are allowable. Withdrawal of the rejection of Claim 13 is also requested. Upon allowance of Claim 13, Claims 19 and 20 depending therefrom are allowable.

Claims 1, 3-4, 8, 12-17, 19, and 21 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,334,166 to Palestrant.

The arguments above are included herein by reference. The Examiner describes Palestrant as describing a first flange 25 extending outwardly from the annular tube and a second flange (not labeled) extending outwardly from the annular tube (see Fig. 2). However, the specification clearly indicates that the numeral 25 is referring generally to the wetting device in its entirety (see column 9, lines 41-43)(See also Fig. 1, reference numeral 25). Furthermore, even if Palestrant could be construed as teaching a first flange, Palestrant does not teach a second flange separate from the first flange, whereby the first flange operates in the manner claimed, and

a second flange also operates to prevent lubricant from migrating onto the control. In fact, Palestrant teaches functional slots 33, 34, 35 and 36 for allowing the user to more easily compress the support jacket. The slots taught by Palestrant prevent the support jacket 32 from acting to prevent migration of lubricant onto the control.

Furthermore, with regard to Claim 8, Palestrant does not include a set of flanges wherein the distance between the first and second flanges provides a sufficient length for hand-gripping. Palestrant teaches use of a device whereby the practitioner uses a thumb and forefinger to control the device, while maintaining the “other three fingers...about the distal end of [the] catheter” (Column 11, Lines 28-31). By allowing the practitioner to use his three free fingers to contact the catheter, the device taught by Palestrant unnecessarily risks contact with the endoscope or catheter, and/or requires Palestrant’s straightening tube 42 to protect the endoscope. With regard to Claims 16 and 19, Palestrant discloses a wetting device 25 with area for finger gripping. Claims 16 and 19 as presently amended to more particularly point out and distinctly claim the invention each recite a second flange shaped for gripping as an end finger rest as to assist in the manual control of said endoscope device. Palestrant teaches a wetting device 25 with attributes to assist in the finger-gripping directly onto the device. The present invention, as specifically claimed, recites a second flange with a finger rest whereby the hand is set upon the endoscope control with second flange shaped for ergonomic fit and hold of the hand placed directly upon the control and not necessarily upon the flange.

By failing to describe each limitation of the present device, Palestrant cannot serve as prior art precluding the allowance of the application under 35 U.S.C. 102(b). Withdrawal of the rejection of Claim 1 is requested. Upon allowance of that claim, Claims 3-4, 8, 12, and 14-17 depending therefrom are allowable. Furthermore, withdrawal of the rejection of Claim 13 is presently requested. Upon allowance of Claim 13, Claims 19 and 21 depending therefrom are also allowable.

In view of the amendments to the claims to more particularly point out distinctly claim

the invention, and the review of U.S. Patent publication by Beane and U.S. Patent to Palestrant, it is believed that the application is in condition for allowance, which allowance is respectfully requested.

Respectfully Submitted,

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